

Kansas Department of Health and Environment

Regulatory Impact Statement

pursuant to K.S.A. 77-416

Proposed New Regulation K.A.R. 28-29-1a

July 2011

Executive Summary of Proposed New Regulation

This proposed new regulation serves to correct obsolete terms and references that appear throughout the solid waste regulations until the individual regulations containing the terms and references can be amended.

In a recent rulemaking, many of the hazardous waste regulations were either modified or revoked and replaced with new regulations. Due to these changes, the references to the hazardous waste regulations that are found in the solid waste regulations are no longer accurate. The hazardous waste rulemaking also revised the classification of hazardous waste generators, so use of the old generators names in the solid waste regulations is no longer correct. In addition, some air and water regulations referenced in the solid waste regulations have been revoked.

Environmental Benefit Statement

1) Need for proposed amendments and environmental benefit likely to accrue.

a. Need.

This regulation will allow proper interpretation of the solid waste regulations until the individual regulations that contain obsolete terms and references can be amended.

b. Environmental benefit.

This regulation provides no environmental benefit.

2) When applicable, a summary of the research or data indicating the level of risk to the public health or the environment being removed or controlled by the proposed regulations or amendments.

Not applicable.

3) If specific contaminants are to be controlled by the proposed regulation or amendment, a description indicating the level at which the contaminants are considered harmful according to current available research.

Not applicable.

Economic Impact Statement

1) Are the proposed regulations or amendments mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program?

No.

2) Do the proposed regulations or amendments exceed the requirements of applicable federal law?

No.

3) Description of costs to agencies, to the general public and to persons who are affected by, or are subject to, the regulations:

a. Capital and annual costs of compliance with the proposed regulations or amendments and the persons who will bear those costs.

There will be no capital or annual costs to comply with this regulation.

b. Initial and annual costs of implementing and enforcing the proposed regulations or amendments, including the estimated amount of paperwork, and the state agencies, other governmental agencies or other persons or entities who will bear the costs.

There will be no initial or annual costs to implement or enforce this regulation.

c. Costs which would likely accrue if the proposed regulations or amendments are not adopted, the persons who will bear the costs and those who will be affected by the failure to adopt the regulations.

If this regulation is not adopted, the regulated community will have difficulty in properly interpreting and complying with the affected regulations.

d. A detailed statement of the data and methodology used in estimating the costs used in the statement.

Not applicable.

e. Description of any less costly or less intrusive methods that were considered by the agency and why such methods were rejected in favor of the proposed regulations.

There were no less intrusive or less costly methods available for consideration by KDHE to achieve the purposes of the proposed new regulation.

f. Consultation with League of Kansas Municipalities, Kansas Association of Counties, and Kansas Association of School Boards.

Municipalities, counties, and school boards will not incur any costs as a result of the regulatory changes, however a copy of this Regulatory Impact Statement will be sent to each of these organizations at the start of the public comment period.

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KAR 28-29-1a

The notice of hearing and public comment period of at least 60 days for the above-referenced Article 29 solid waste management regulation concerning modification of obsolete references and text was published in the *Kansas Register* on July 21, 2011. The notice is included in the official record of the proceedings for adoption of this regulation as Attachment 1 to the Report of the Hearing Officer. During the public comment period preceding the hearing, KDHE received no written comment by letter or electronic mail from the general public or regulated community. KDHE received comment letters dated September 9, 2011, and September 16, 2011, from Raney L. Gilliland, Kansas Legislative Research Department, on behalf of the Joint Committee on Administrative Rules and Regulations. The Joint Committee had reviewed this regulation at its meeting on August 29, 2011.

The public hearing was conducted at 10:00 a.m., Tuesday, September 27, 2011, in the Prairie Conference, third floor, Curtis State Office Bldg., 1000 SW Jackson, Topeka. In addition to the hearing officer, two KDHE staff members attended. There were no individuals from the public present at the hearing. There was no oral comment or written comment from the public regarding the proposed regulation presented or received at the hearing. No public comment was received during the remainder of the comment period which concluded at 5:00 p.m. on September 30, 2011. The hearing registration sheet is included in the record of the proceedings as attachment 2 to the Report of the Hearing Officer.

Pursuant to KSA 2010 Supp. 77-416, KDHE sent copies of the Regulatory Impact Statement corresponding with the proposed regulation to the League of Kansas Municipalities, Kansas Association of Counties and Kansas Association of School Boards at the start of the public comment period. No comment was received from any of these organizations.

All comment received during the public comment period was fully reviewed and considered. After careful consideration, the agency determined that no post hearing changes in the proposed regulation were needed to address the comment. KDHE prepared a responsiveness summary that specifically lists each comment received and provides a detailed explanation of the agency's response to address each comment. The hearing officer entered both the public comment received and the responsiveness summary into the official record of the proceedings and these documents are attached to and made a part of the Report of the Hearing Officer as Attachment 3 and Attachment 4, respectively.

Based on the administrative record, the hearing officer found that KDHE met the requirements of KSA 2010 Supp. 77-415, *et seq.*, amended by L. 2011, ch. 14, secs. 1, 2, 3 and 4, for adopting and filing regulations with the Secretary of State. The hearing officer also determined that the Secretary of KDHE has authority pursuant to KSA 65-3406 to promulgate the solid waste management regulation KAR 28-29-1a. This regulation was officially adopted by the Secretary of KDHE on October 27, 2011, and has been filed with the Secretary of State for final publication in the *Kansas Register*.